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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,445	07/06/2005	Takashi Fujimoto	450100-04897	6371
<div>7590 William S Frommer Frommer Lawrence & Haug 745 Fifth Avenue New York, NY 10151</div>				
<div>10/28/2008</div>				
<div>EXAMINER</div>				
<div>AGUSTIN, PETER VINCENT</div>				
<div>ART UNIT</div>		<div>PAPER NUMBER</div>		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/541,445

Applicant(s)

FUJIMOTO ET AL.

Examiner

Peter Vincent Agustin

Art Unit

2627

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This application is a national stage entry (371) of PCT/JP03/15817, filed December 10, 2003.
2. Claims 1-7 are currently pending.

Drawings

3. Replacement drawings for Figures 1A-3G were received on September 19, 2008. These drawings are acceptable.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 & 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Kono (US 5,305,296).

In regard to claim 1, Kono discloses an optical recording method in an optical recording device for recording data on an optical recording medium by an optical pickup (see title), said optical recording method comprising the steps of: searching a test writing area (Figure 2, step S9: “search test area”) for a stand-by position that can be used for an Optimum Power Calibration (OPC) on the optical recording medium when the optical recording medium is inserted into the optical recording device (step S1: “disc is loaded”); stopping the optical pickup at the stand-by position (column 4, lines 53-59: “searching the plurality of test areas for one test area”) until an input of a recording operation of data is received (column 4, line 51: “in response to a

predetermined command”); carrying out an OPC operation at the stand-by position (column 4, lines 53-59: “applying the light beam to the test area to effect test recording therein to measure an optimum light intensity for recording information”) when an input of a recording operation of data is received (column 4, line 51: “in response to a predetermined command”); moving the optical pickup to a data recording area on the optical recording medium after an optimum power is obtained (step S12: “search for finally recorded position”); and recording the data in the data recording area on the optical recording medium by the optical pickup (column 4, lines 59-62: “recording information in the information recording area with the light beam applied thereto with the measured optimum light intensity”).

Claim 4 has limitations similar to those of claim 1; therefore, it is rejected on the same grounds.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 3, 5 & 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kono in view of Hagiwara et al. (US 6,987,717).

For a description of Kono, see the rejection above. However, Kono does not disclose: in regard to claim 2, that real recording data is recorded in the data recording area by the optical pickup moved to the data recording area on the optical recording medium to obtain a reference value of a Running Optimum Control (R-OPC) and record the data while the R-OPC is

performed on the basis of the obtained reference value; and in regard to claim 3, that the reference value of the R-OPC is obtained in accordance with a normalization by a normalizing coefficient table read upon inserting an optical disc.

Hagiwara et al. disclose: in regard to claim 2, that real recording data is recorded in a data recording area by an optical pickup moved to the data recording area on an optical recording medium to obtain a reference value of a Running Optimum Control (R-OPC) and record the data while the R-OPC is performed on the basis of the obtained reference value (column 27, lines 46-60); and in regard to claim 3, that the reference value of the R-OPC is obtained in accordance with a normalization by a normalizing coefficient table read upon inserting an optical disc (column 27, lines 50-54: “a value obtained by, for example, normalizing a level of the reproduction signal during a recording by the recording power is considered as a B-value”; column 27, lines 57-58: “optimum B-value determining/storing unit 109”).

It would have been obvious to one of ordinary skill in the art at the time of invention to have applied this teaching of Hagiwara et al. to the method of Kono, the motivation being to accurately determine the recording power and other recording conditions even at a different linear velocity, thereby performing high-quality recording (column 29, lines 21-25).

Claims 5 & 6 have limitations similar to those of claims 2 & 3; therefore, they are rejected on the same grounds.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kono in view of the admitted prior art.

For a description of Kono, see the rejection above. However, Kono does not disclose: in regard to claim 7, an image pick-up means to record a video signal obtained by the image pick-up means on the optical recording medium.

The admitted prior art discloses: in regard to claim 7, an image pick-up means to record a video signal obtained by the image pick-up means on an optical recording medium (understood from page 7, paragraph 3 of the specification). It would have been obvious to one of ordinary skill in the art at the time of invention to have applied the teachings of the admitted prior art to the recording device of Kono, the motivation being to enable storage of video data.

Response to Arguments

9. Applicant's arguments filed September 19, 2008 have been fully considered but they are not persuasive.

(a) The applicant argues on page 10 that there is no suggestion in Kono that the optical pickup is stopped at the test area until the recording operation is received. The examiner disagrees for the following reasons: (1) Figure 2, step S9 indicates "search test area". In order to search for the test area, it is necessary for an optical pickup to continuously move with respect to the optical disk, until the test area is finally found, in which case it is understood that the optical pickup is stopped at the test area. If the optical pickup does not stop, then the "searching" is not accomplished. (2) Column 4, lines 53-59 teach that when a test area is found, a light beam is applied to the test area to effect test recording therein. In order for the light beam to be applied to the test area, it is necessary for the optical pickup to be "stopped" at the test area. If the optical pickup is not stopped at the test area, then it is impossible for the light beam to be applied to the test area. (3)

Column 7, lines 16-19 teach that a recording operation is controlled in response to commands from an operation control circuit. As shown in Figure 2, the recording step follows the power calibration step. Therefore, until a command is received it is understood that the optical pickup is stopped at the test area, waiting for the recording command.

(b) The applicant argues on page 12, paragraph 4 that there is no mention of an optical pickup means to record a video signal obtained by the image pick-up means in the Background section of the specification. The examiner disagrees. The applicant is directed to page 10, last line, through page 11, line 1, which indicate “the above-described INC system or the ROW system is employed so that data whose image is picked up by a camera can be recorded in the DVD-R/-RW”. Recording in a DVD-R/-RW necessarily involves an optical pickup means. The INC system and the ROW system discussed in the background are related to recording of a video signal (see pages 9-10). “Image picked up by a camera” clearly suggests an “image pick-up means”.

(c) The applicant argues on page 12, paragraph 4 that the Applicant’s Background section is not necessarily prior art, and that there is no admission that this background art is prior art. The examiner disagrees. The applicant is directed to page 11, line 4, wherein it is indicated that the teachings in the background relied upon by the examiner is based on Japanese Patent Application Laid-Open No. 2001-006266, which is clearly prior art within the meaning of 35 U.S.C. § 102(b). Furthermore, applicant has not provided any evidence that the teachings in the background are the applicant’s own work, see MPEP § 2129, which was within the year before the application filing date, see MPEP § 2132.01.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Vincent Agustin whose telephone number is (571) 272-7567. The examiner can normally be reached on Monday-Thursday 8:30 AM-6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, A. L. Wellington can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Peter Vincent Agustin/
Primary Examiner, Art Unit 2627